SUPREME COURT, U. S.

DEC 17

MICHAEL RODAK,

IN THE

SUPREME COURT OF THE UNITED STATES

NOVEMBER TERM, 1973

No. 73-946

In the Matter of

NEAL L. GROSSMAN, Petitioner

-vs-

STATE BAR GRIEVANCE BOARD,
Respondent-Appellee

ON APPEAL FROM THE
MICHIGAN SUPREME COURT

PETITION FOR WRIT OF CERTIORARI

NEAL L. GROSSMAN
Petitioner
566 Lahser Road
Birmingham, Michigan
48010

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NOW COMES Neal L. Grossman, in pro per, and in Petition to this Honorable United States Supreme Court for issuance of a Writ of Certiorari, states to this Honorable Court as follows:

JURISDICTIONAL STATEMENT

1. Review is respectfully requested in the matter of Neal L. Grossman, Appellant, vs. State Bar Grievance Board, Appellee, Application for Superintending Control denied November 29, 1973.

2. This Court is authorized by 28 U.S.C. Section 1651(a) to issue the requested Writ of Certiorari since the relief sought is not available in any other court and cannot be had through any other appellate processes.

QUESTIONS PRESENTED FOR REVIEW:

I.

Can the State Bar Grievance Board breach its duty to fully investigate a matter of misconduct which has been brought to its attention with an official request for investigation?

II.

Can the State Bar Grievance Board arbitrarily and capriciously exonerate an attorney who who has violated State Bar Canon 5, DR5-104, "Limiting Business Relationship with a Client" which is part of the Code of Professional Responsibility?

III.

Can the State Bar Grievance Board arbitrarily and capriciously deny Complainant the right to have his Complaint adjudicated by a State Bar Hearing Panel?

IV.

Can the State Bar Grievance Board dismiss a formal complaint and request for investigation without allowing complainant a conference or hearing in order to present admissible evidence to the State Bar Grievance Board?

V.

Does the State Bar Grievance Board have the duty to treat all complaints and requests for investigation in an impartial and evenhanded manner?

VI.

Does denial of such treatment described above constitute denial of due process and equal protection under the Fourteenth Amendment to the United States Constitution?

VII.

In the absence of definite standards regarding the adjudication of complaint to the State Bar Grievance Board, is, or should the Grievance Board be required to adjudicate via the Hearing Panel all complaints which are not settled between complainant and respondent attorney?

FACTS

Petitioner herein, Neal L. Grossman, was an investor in the Black Angus Franchise opportunity. Morris Brenner was retained as Corporate Attorney. Subsequently, to the exclusion of Plaintiff herein, it is alleged that Mr. Brenner appropriated the benefits of the business by becoming a thirty-three per cent owner in Angus Franchise Systems, a corporation he helped form to develop the same Black Angus Franchise opportunity.

Petitioner herein alleges that Morris Brenner completely disregarded Petitioner's previous ownership of the Black Angus Franchise opportunity.

Petitioner states that Mr. Brenner's conduct was in violation of the State Bar Canons of Ethics and Standard of Conduct.

Petitioner filed a formal request for investigation of said misconduct with the Michigan State Bar Grievance Board on March 21, 1973. Petitioner included voluminous files and documents to substantiate his previous ownership of the Black Angus Franchise opportunity and all other factual allegations made in his complaint.

Under State Bar Grievance Rules the Board is legally required to conduct a full and complete investigation of all complaints. Subsequently, without even notifying or contacting petitioner

as to the status of the investigation or without ever requesting any additional testimony or documentation from Petitioner, the Board wrote a letter exonerating Respondent Attorney Morris Brenner. This letter was based on assumptions and conclusions not verified by any investigation whatsoever and in complete disregard of the evidence Petitioner, Neal L. Grossman, presented to the Board.

Petitioner herein believes that the Board acted arbitrarily and capriciously in violation of its expressed duty to adjudicate complaints wherever it is presented with a set of facts which show that there are reasonable grounds to charge and issue a formal complaint. Instead of following this procedure, the Grievance Board issued a Summary Dismissal.

Petitioner herein, on July 30, 1973, made application to the Michigan Supreme Court for Superintending Control, pursuant to MGCR 1963, 862.5. This rule specifically states that the State Bar Grievance Board was required to conduct a full and complete investigation setting forth all details of said investigation.

In their response, the Board did not set forth such details as required by MGCR 1963, 862.5.

On November 29, 1973, Petitioner's Application for Superintending Control was arbitrarily and capriciously denied by the Michigan Court.

CONCLUSION

Petitioner, Neal L. Grossman, in summary states that he has been denied equal consideration and due process in the handling of his complaint by the State Bar Grievance Board.

Further, the State Bar Grievance Board breached its duties and responsibilities by acting contrary to its own rules of conduct and Canons of Professional ethics. In addition, it allowed Respondent Attorney Brenner to breach said Rules of Canons by summarily dismissing the Complaint against him without even a Hearing.

Petitioner herein, Neal L. Grossman, states that said actions have denied him Regress of his Grievance as guaranteed by the First Amendment of the United States Constitution and that the Board failed to apply its Rules and Canons even-handedly and fairly in matters such as these involving discipline.

That said actions by the Grievance Board have caused Petitioner herein pain, suffering and monetary damages.

RELIEF

WHEREFORE, Petitioner herein, Neal L. Grossman, respectfully requests that this Honorable United States Supreme Court issue a Writ of Certiorari and grant such appropriate relief as justice, fairness and good conscience shall require.

Respectfully submitted,

NEAL L. GROSSMAN
Petitioner
566 Lahser Road
Birmingham, MI 48010
Tel. 645-2990

DATED:

December _____, 1973

APPENDIX

ORDER

AT A SESSION OF THE SUPREME COURT OF THE STATE OF MICHIGAN, Held at the Supreme Court Room, in the City of Lansing, on the 29th day of November in the year of our Lord one thousand nine hundred and seventy-three.

Present the Honorable

CR 11-271

NEAL L. GROSSMAN,
Plaintiff-Appellant,
v 55144
STATE BAR
GRIEVANCE BOARD,
Defendant-Appellee.

THOMAS M. KAVANAGH,
Chief Justice,
THOMAS E. BRENNAN,
THOMAS G. KAVANAGH,
JOHN B. SWAINSON,
G. MENNEN WILLIAMS,
CHARLES L. LEVIN,
MARY S. COLEMAN,
Associate Justices

On order of the Court, the application for superintending control is considered, and the same is hereby DENIED, because the appellant has failed to persuade the Court that he has a meritorious basis for appeal or that the determination of the State Bar Grievance Board was clearly erroneous.

T. E. Brennan, J., not participating.

STATE OF MICHIGAN--ss.

I, Donald F. Winters, Clerk of the Supreme Court of the State of Michigan, do hereby certify

that the foregoing is a true and correct copy of an order entered in said court in said cause; that I have compared the same with the original, and that it is a true transcript therefrom, and the whole of said original order.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of said Supreme Court at Lansing,

this 30th day of November in the year of our Lord one thousand nine hundred and seventy-three.

/s/ Harold Hoag Clerk.
Deputy